

CHAPTER 103

(HB 399)

AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 42.455 is amended to read as follows:

- (1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.
- (2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (8){(7)} of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:
 - (a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;
 - (b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;
 - (c) Public transportation, including mass transit systems, streets, and roads;
 - (d) Health;
 - (e) Recreation;
 - (f) Libraries and educational facilities;
 - (g) Social services for the poor, the elderly, and individuals with disabilities;
 - (h) Industrial and economic development;
 - (i) Vocational education;
 - (j) Workforce training; and
 - (k) Secondary wood industry development.
- (3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.
- (4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.
- (5) The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.
- (6) ~~[/The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty one (21) days before the scheduled date of the public hearing.]~~The Department for Local Government shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.
- (7) ***Prior to a local government's expenditure of any funds it receives under this section, the local government shall allow an opportunity for public input and comments regarding the expenditure of those funds. Before any unit of local government expends any funds it receives under this section, it shall:***
 - (a) ***Provide an opportunity to the public to provide input with regard to the project or projects in a public meeting for which notice has been given under KRS 61.823(2) to (4);***

- (b) *Include the topic as a specific item on the public meeting agenda and shall allow any person to speak with regard to any proposed project, any project which he or she feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to expenditure of any funds it receives under this section. The local government shall not be bound by the comments and input provided at the meeting but shall give due consideration to them; and*
- (c) *Not begin construction on a project until the meeting as provided in this section has been held.*

This subsection shall not be construed to require a separate meeting for each project. A single meeting encompassing the program, if all projects subsequently undertaken have been identified at the meeting, shall meet the requirements of this subsection.

- (8) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal-impact and coal-producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal-impact and coal-producing county for said preceding fiscal year.
- ~~(9)~~(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the cabinet shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal-impact and coal-producing county.
- ~~(10)~~(9) The Department of Revenue shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection ~~(9)~~(8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

➔Section 2. KRS 91A.040 is amended to read as follows:

- (1) Except as provided in subsections (2) to (4) of this section, each city shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audit shall be completed by ~~March~~February 1 immediately following the fiscal year being audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than ~~April~~March 1 immediately following the fiscal year being audited.
- (2) In lieu of the annual audit requirements in subsection (1) of this section, a city with a population equal to or less than one thousand (1,000) based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year in the following manner:
 - (a) After the close of each odd-numbered fiscal year, the city shall for that odd-numbered year cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by ~~March~~February 1 immediately following the fiscal year to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than ~~April~~March 1 immediately following the fiscal year being audited; and
 - (b) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.
- (3) In lieu of the annual audit requirements in subsection (1) of this section, a city with a population of more than one thousand (1,000) but less than two thousand (2,000) based upon the most recent federal decennial census may elect to have an audit performed every other fiscal year to cover the two (2) fiscal years occurring since the prior audit in the following manner:
 - (a) After the close of each odd-numbered fiscal year, the city shall cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audit shall include both fiscal

years since the prior audit and shall be completed by ~~March~~~~February~~ 1 immediately following the fiscal years to be audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than ~~April~~~~March~~ 1 immediately following the fiscal years being audited; and

- (b) After the close of each even-numbered fiscal year, the city shall not be required to complete an annual audit but shall forward an electronic copy of its financial statement prepared in accordance with KRS 424.220 to the Department for Local Government by no later than October 1 immediately following the close of the even-numbered fiscal year.
- (4) Any city, which for any fiscal year receives and expends, from all sources and for all purposes, less than ***one hundred fifty thousand dollars (\$150,000)***~~(seventy five thousand dollars (\$75,000))~~, and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. ***In addition***, each city exempted in accordance with this subsection shall:
- (a) Annually prepare a financial statement in accordance with KRS 424.220 and shall, not later than October 1 following the conclusion of the fiscal year, forward one (1) electronic copy to the Department for Local Government for information purposes~~;~~; ***and***
 - (b) ***If exempted under this subsection for more than four (4) consecutive fiscal years after July 1, 2022, have prepared an attestation engagement covering the fourth fiscal year in which the city qualified for an exemption under this subsection. An attestation engagement completed pursuant to this subsection shall be:***
 - 1. ***Prepared by an independent certified public accountant or by the Auditor of Public Accounts pursuant to a contract with the city using generally accepted attestation standards as promulgated by the American Institute of Certified Public Accountants and any additional procedures established by the Department for Local Government through administrative regulation;***
 - 2. ***Completed by no later than March 1 immediately following the conclusion of the fiscal year in which in the attestation engagement is required;***
 - 3. ***Submitted to the Department for Local Government as one (1) electronic copy no later than April 1 after its completion;***
 - 4. ***Advertised to the public within (30) days of its completion by causing the publication of a legal display advertisement of not less than six (6) column inches in a newspaper qualified under KRS 424.120 stating that the attestation has been prepared and copies have been provided to each local newspaper of general circulation, each news service, and each local radio and television station which has on file with the city a written request to receive copies of financial statements under KRS 424.220. Any city advertising under this subparagraph shall be exempt from publishing its financial statement under KRS 424.220(6)(b) for any year in which it is required to have an attestation engagement completed; and***
 - 5. ***Provided to the Auditor of Public Accounts upon request for review of the final report and all related work papers and documents regarding the attestation engagement.***
- (5) If a city is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the city shall also comply with the provisions of that law.
- (6) The Department for Local Government shall, upon request, make available electronic copies of the audit reports and financial statements received by it under subsections (1) to (4) of this section to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975 or to the Auditor of Public Accounts.
- (7) Each city required by this section to conduct an annual or biennial audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include but not be limited to requirements that:
- (a) The auditor be employed to examine the basic financial statements, which shall include the government-wide and fund financial statements;
 - (b) The auditor shall include in the annual or biennial city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a

- certification with the annual or biennial audit report that the funds were expended for the purpose intended;
- (c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;
 - (d) The auditor shall prepare a typewritten or printed report embodying:
 - 1. The basic financial statements and accompanying supplemental and required supplemental information;
 - 2. The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and
 - 3. Findings required to be reported as a result of the audit;
 - (e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and
 - (f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.
- (8) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.
- (9) Each city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish an advertisement in accordance with KRS Chapter 424 containing:
- (a) The auditor's opinion letter;
 - (b) The "Budgetary Comparison Schedules-Major Funds," which shall include the general fund and all major funds;
 - (c) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours;
 - (d) A statement that any citizen may obtain from city hall a copy of the complete audit report, including financial statements and supplemental information, for his *or her* personal use;
 - (e) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents (\$0.25) per page; and
 - (f) A statement that copies of the financial statement prepared in accordance with KRS 424.220, when a financial statement is required by KRS 424.220, are available to the public at no cost at the business address of the officer responsible for preparation of the statement.
- (10) Any resident of the city or owner of real property within the city may bring an action in the Circuit Court to enforce the provisions of this section. Any person who violates any provision of this section shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city or owner of real property within the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident or property owner bringing the action, shall be assessed against the unsuccessful party.
- (11) In the event of extenuating circumstances that prevent a city from completing and submitting a required audit or financial statement in compliance with the applicable deadlines in subsections (1) to (4) of this section, the city may submit a written request for an extension of time to the Department for Local Government on a form prescribed by the Department for Local Government. The Department for Local Government shall approve the request if it is submitted on or before the applicable deadline and, in the judgment of the Department for Local Government, the request is warranted by extenuating circumstances beyond the control of the city. Extensions

granted under this subsection shall not exceed nine (9) months from the original due date of the audit or financial statement. If the Department for Local Government approves an extension for a city and the city fails to complete and submit the required audit or financial statement in compliance with that extended deadline, then the provisions of subsection (12) of this section shall apply.

- (12) If a city fails to complete an audit or financial statement and submit it to the Department for Local Government as required in subsections (1) to (4) and (11) of this section, the Department for Local Government shall notify the Finance and Administration Cabinet that the city has failed to comply with the audit requirements of this section, and that any funds in the possession of any agency, entity, or branch of state government shall be withheld from the city until further notice. The Department for Local Government shall immediately notify the Finance and Administration Cabinet when the city complies with the requirements of subsections (1) to (4) and (11) of this section for all prior fiscal years it has failed to comply with the audit requirements of this section, and the Finance and Administration Cabinet shall direct the reinstatement of payments to the city, including any funds that were withheld due to the noncompliance.
- (13) Within a reasonable time after the completion of a special audit or examination conducted pursuant to KRS 43.050, the Auditor shall bill the city for the actual expense of the audit or examination conducted. The actual expense shall include the hours of work performed on the audit or examination as well as reasonable associated costs, including but not limited to travel costs. The bill submitted to the city shall include a statement of the hourly rate, total hours, and total costs for the entire audit or examination.

➔Section 3. KRS 174.100 is amended to read as follows:

Before any unit of local government expends state-derived tax revenues on a state rural, secondary, county road or municipal highway, road, street, or county or municipal bridge, it shall ~~hold a hearing in accordance with the provisions of this section~~ **provide an opportunity to the public to provide input in a public meeting for which notice has been given under KRS 61.823(2) to (4)** ~~to take the sense of the public~~ with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

- (1) Prior to the contemplated date of expenditure of state-derived tax revenues on a road or bridge by a unit of local government, that unit of government shall **include the topic as a specific item on the public meeting agenda and shall allow** ~~hold a public hearing to take the sense of the public with regard to road and bridge matters within the unit of local government. Notice of the hearing shall be given not less than seven (7) days nor more than twenty one (21) days before the scheduled date of the public hearing and before beginning work on any project covered by this section.~~
- (2) ~~At the hearing,~~ any person ~~to~~ **may** speak with regard to any proposed project, any project which he *or she* feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.
- ~~(2)~~**(3)** The unit of local government ~~holding the hearing~~ shall not be bound by the **comments and input provided at the meeting** ~~testimony heard at the hearing~~ but shall give due consideration to **them** ~~it~~.
- ~~(3)~~**(4)** No unit of local government shall begin construction on a road or bridge project in which state-derived tax revenues are involved until the **meeting** ~~hearing~~ as provided in this section has been held.
- ~~(4)~~**(5)** This section shall not be construed to require a separate **meeting** ~~hearing~~ for each project. A single **meeting** ~~hearing~~ encompassing the entire road and bridge program, if all projects subsequently undertaken have been identified at the **meeting** ~~hearing~~, shall meet the requirements of this section.
- ~~(5)~~**(6)** The provisions of this section shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.
- ~~(7)~~ ~~The provisions of this section shall not apply to projects which were under construction as of July 15, 1980, unless construction was suspended after that date and the unit of local government desires to reactivate the project.~~

Signed by Governor April 8, 2022.